

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

MONSTER ENERGY COMPANY,

Applicant,

v.

KOLON INDUSTRIES, INC.

Respondent.

Case No. _____

**APPLICATION FOR THE ISSUANCE OF A SUBPOENA AD TESTIFICANDUM AND
SUBPOENA DUCES TECUM TO KOLON USA, INC. PURSUANT TO 35 U.S.C. § 24**

Pursuant to 35 U.S.C. § 24, Applicant Monster Energy Company (“Applicant”) hereby applies for the issuance of (1) a Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises, and (2) a Subpoena to Testify at a Deposition (collectively, the “Subpoenas”). The proposed Subpoenas are respectively attached hereto as **Exhibits 1 and 2**. The purpose of these Subpoenas is to obtain discoverable information in connection with a proceeding titled *Monster Energy Company v. Kolon Industries, Inc.*, TTAB Opposition No. 91285158 currently pending before the Trademark Trial and Appeal Board (“Board”) at the United States Patent and Trademark Office (“PTO”).

In support of this Application, Applicant represents as follows:

1. On August 30, 2022, Kolon Industries, Inc. filed an Application to obtain registration on the Principal Register of the trademark WEATHER MONSTER.

2. On May 23, 2023, Applicant filed a Notice of Opposition with the Board in opposition to Kolon Industries, Inc.'s U.S. Trademark Application for the mark WEATHER MONSTER.

3. Applicant has been, and still is, engaged in the development, licensing, marketing, distribution, and/or sale of beverages, clothing, bags and other goods under the mark MONSTER, MONSTER ENERGY, and related marks, all containing "MONSTER."

4. Kolon USA, Inc. is a United States corporation located at 65 Challenger Road, Suite 105, Ridgefield Park, New Jersey 07660.

5. Pursuant to 35 U.S.C. § 24, a subpoena to compel the production of documents and the attendance of a witness to give testimony in a matter pending before the Board must be issued by the United States Court for the District in which the testimony is to be taken. That Section provides, in relevant part:

The clerk of any United States court for the district wherein testimony is to be taken for use in any contested case in the Patent and Trademark Office, shall, upon the application of any party thereto, issue a subpoena for any witness residing or being within such district, commanding him to appear and testify before an officer in such district authorized to take depositions and affidavits, at the time and place stated in the subpoena. The provisions of the Federal Rules of Civil Procedure relating to the attendance of witnesses and to the production of documents and things shall apply to contested cases in the Patent and Trademark Office.

6. This Application is proper pursuant to 35 U.S.C. § 24 because the Subpoenas seek narrowly-tailored information concerning Kolon Industries, Inc.'s future plans for use of the mark WEATHER MONSTER, sales of goods sold under the mark WEATHER MONSTER, and

channels of trade/distribution for goods sold under the mark WEATHER MONSTER that is highly relevant to the ongoing proceedings before Board; the Subpoenas meet all the statutory requirements for issuance under 35 U.S.C. § 24; and Applicants will comply with the applicable provisions of Federal Rule of Civil Procedure 45.

7. Accordingly, Applicant respectfully requests that the Court grant this Application and enter an order requiring the Clerk to issue the Subpoenas attached hereto as **Exhibits 1 and 2** to compel Kolon USA, Inc. to produce documents and other information and to attend a deposition. A proposed order is filed herewith for the Court's consideration.

Dated: June 10, 2024

Respectfully submitted,

/s/ Cynthia S. Betz

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